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7 DONALD FRANKLIN SMITH,  
8 Petitioner,  
9 v.  
10 KEVIN CHAPPELL,  
11 Respondent.

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28 Case No. 14-cv-1552 (WHO)  
DEATH PENALTY CASE

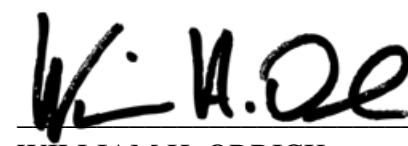
**ORDER TRANSFERRING CAPITAL  
HABEAS ACTION TO THE DISTRICT  
COURT FOR THE CENTRAL  
DISTRICT OF CALIFORNIA**

Petitioner was convicted and sentenced to death in Los Angeles County Superior Court. *See People v. Bryant*, 60 Cal.4th 335 (Cal. 2014). Petitioner has filed this action under 28 U.S.C. § 2241(a)(c)(3), which allows for filing either in the district of conviction or the district of confinement. However, that remedy is not available to prisoners being held pursuant to the conviction of a state court. *McNeely v. Blanas*, 336 F.3d 822, 824 n. 1 (9th Cir. 2003).

Petitioner must proceed under 28 U.S.C. § 2254. *White v. Lambert*, 370 F.3d 1002, 1009-10 ("§ 2254 is the exclusive vehicle for a habeas petition by a state prisoner in custody pursuant to a state judgment, even when the petitioner is not challenging his underlying state court conviction."), *overruled on other grounds by Hayward v. Marshall*, 603 F.3d 546 (9th Cir. 2010). Accordingly, this action is hereby TRANSFERRED to the District Court for the Central District of California. *See* N.D. Cal. Habeas L.R. 2254-22(c).

**IT IS SO ORDERED.**

Dated: October 22, 2014

  
WILLIAM H. ORRICK  
United States District Judge